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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,722	10/30/2003	Patrick R. Lancaster III	02906.0346	6330

22852 7590 11/22/2006

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EXAMINER
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PARADISO, JOHN ROGER

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/696,722

Applicant(s)

LANCASTER ET AL.

Examiner

John R. Paradiso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38,40-47,49-58,76-82,84,86-89 and 133-136 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38,40-47,49-58,76-82,84,86-89 and 133-136 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Withdrawal of Finality***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-38, 40-47, 49-58, 76-82, 84, 86-89, and 133-136 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JAMES ET AL in view of BELL (US 4049130).

JAMES ET AL discloses a method and apparatus for dispensing pallets in which pallets are stored in a magazine (P) and lifted up from a bottommost pallet, the bottommost pallet being supported by a plate. The bottommost pallet is moved from under the magazine by pusher lugs through the gap created (121) and conveyed on rollers (19). (See JAMES ET AL column 3:62-4:38 and Fig. 1-2). The pusher lugs are mounted on a conveyor which is moved by a motor.

Examiner notes that a cantilever can be considered as a large bracket, held rigidly at one end. The claimed "cantilevered pusher bar" is being read on the pusher lugs of JAMES ET AL, since they are held rigidly on the end secured to the conveyor and extend outward to engage the pallet.

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JAMES ET AL does not specifically disclose means for adjusting the size of an interior of the pallet magazine, nor does it disclose the pusher being spaced above the platform surface.

BELL discloses a method and apparatus for dispensing flat objects (PB) from the bottom of a stack (S). The stack rests on a work surface (16) and the lowermost objects are pushed by a pusher (22) that is in turn moved by a pneumatic arm (26). The pusher (22) is spaced above the work surface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of JAMES ET AL by adding the pusher of BELL in order to achieve the greater pushing force made possible by a pneumatic pusher.

Regarding claim 4, 24-26, 54-56, Fig. 2 of JAMES ET AL shows that the pusher lugs move from horizontal to vertical and back repeatedly.

Regarding claim 5, the pusher lugs of JAMES ET AL move from the rear of the pallet to the front and therefore from the rear gap created by the raising of the other pallets to the front gap, which was created the same way.

Regarding claim 18 and 31, sensors (not shown) provide input to a programmable logic controller (25) to sense jams and stop the machine as appropriate if a jam occurs (see column 14:14-38).

Regarding claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pallet magazine size of JAMES ET AL adjustable by adding a means to adjust the size of an interior of the pallet magazine in order to accommodate different commercial sizes of pallets, since it has been held that the provision of

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adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

Regarding claims 79 and 136, in the previous Office Action, Applicant was given Official Notice that the use of vibratory motion to reduce the incidence of snags between parts that move in proximity to one another is quite well known in the packaging art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide for a vibratory motion to the pallets to reduce the incidence of snags as one of the pallets is pulled from the stack. Since Applicant does not disagree with this point, it will hereafter be referred to as admitted prior art.

Regarding claims 80 and 133, it would have been obvious to one of ordinary skill in the art at the time the invention was made to load the pallets and wrap the load as claimed, holding loads is the primary function of pallets and wrapping loads is well known in the art.

#### ***Response to Arguments***

4. Applicant's arguments filed 8/18/2006 have been fully considered but are considered moot in view of the new rejection above, except for the following answers.
5. Applicant states on page 4 of his Response that "Bell, however, teaches pushers 22 that remove several articles at a time from stack S. ... Thus, if pushers 22 of Bell were added to James, they would move not only pallet P1, but also remaining pallets 302-305, onto inspection table 15.

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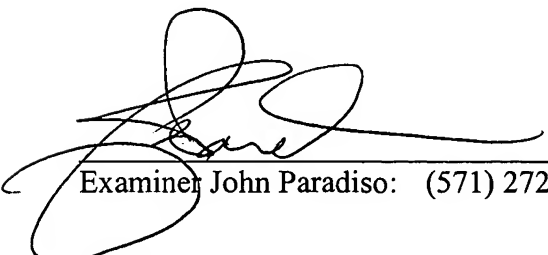
However, BELL is used in the rejection to teach the use of a pneumatic pusher. There is no reason inherent in the invention that would preclude it from pushing only the bottommost pallet.

*Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (571) 272-4466

November 20, 2006

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 272-4467

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)